There seems to be sufficient difference in these situations to warrant holding that the testator may have intended to dispose differently of these dividends—and this without violence to the terms of the will. The general intention fairly inferrable from such a disposition is (1) that the investment that the shares represent in the company at the time of the testator's death should be preserved as the corpus of the estate to the remainderman, and (2) that what represents returns on that investment in whatever form distributed should go to the life-tenant. Where then the stock dividend is issued against capital invested prior to the testator's death it represents the original investment and so should be preserved to the remainderman. And this is the general holding. *Hite* v. *Hite* (1892) 93 Ky. 257. Where on the other hand the stock dividend is issued against accumulated cash profits it represents not the original investment itself but returns on that investment and should go to the life tenant. This too is the rule in many jurisdictions but its application varies. For example in Pennsylvania where cash dividends are apportioned between the life-tenant and the remainderman according as the earnings were made after or before the testator's death, stock dividends issued against cash profits are apportioned in the same manner. *Earp's Appeal* (1857) 28 Pa. St. 368. On the other hand the New York courts have decided that all such stock dividends go to the life tenant in accordance with their rule giving all cash dividends to the life tenant irrespective of whether the earnings were accumulated before or after the death of the testator. *McLouth* v. *Hunt* (1897) 154 N. Y. 179; *Jermain* v. *Lake Shore & M. S. R. R.* (1883) 91 N. Y. 483. And in the third situation where it can fairly be said that the stock dividend is issued against an increase of invested capital drawn from earnings accumulated after the testator's death the same reasoning should apply and the dividend be given to the life tenant. It does not seem material that the declaration of the dividend is not coincident with the investment if it can fairly be identified with it. It still in effect represents earnings on the original investment and not that investment itself. And it has been so held in some jurisdictions. *Pritchett* v. *Nashville Trust Co.* (1896) 96 Tenn. 472.

ADMIRALTY JURISDICTON OVER CANALS AND CANAL BOATS.—The United States Supreme Court has recently held that the Erie Canal is a navigable water of the United States, within the admiralty jurisdiction, that canal boats employed thereon are ships, within the meaning of admiralty law, and that a contract to repair such a canal boat is, therefore, a maritime contract. *Perry* v. *Haines* (1903) 24 Sup. Ct. R. 8. The need of uniform rules to govern shipping on the high seas led to the adoption of the general maritime law in England. Despite the opposition of the Common Law courts admiralty jurisdiction was established over all waters within the ebb and flow of the tide, and this in effect included all navigable waters. In the first instance the United States Supreme Court applied this "tidal test", *The Thomas Jefferson* (1825) 10 Wheat.

428, with the result that many navigable waters in this country were outside the jurisdiction. To remedy this the artificial tidal test was set aside, and all waters which were navigable in fact and were not merely State waters were regarded as within the admiralty jurisdiction. *The Genesee Chief* (1851) 12 How. 443. Two questions then arise: (1) When is a water navigable in fact; (2) what is a water of the United States as distinguished from a water of the State? It appears that any water over which substantial commerce may be carried on in the usual way is a navigable water; and that a United States water, as distinguished from a State water, is one which forms a continuous highway for such commerce between the States, or with foreign countries. See *The Daniel Ball* (1870) 10 Wall. 557; *Leovy* v. *U. S.* (1900) 177 U. S. 621. It is to be observed then that the fact that a water is capable of being used for interstate commerce is made to play the same part in determining the extent of admiralty jurisdiction that its being open to foreign commerce formerly played. This is a natural result under our federal system of government. The States have not a few of the aspects of foreign countries, and a similar necessity for uniform law in maritime affairs, as between them, exists, and is a sufficient justification for the jurisdiction. Any body of water, then, which forms such a highway as was above mentioned, should fall within the sphere of admiralty. The fact that it is artificial can make no difference in principle so long as it is open for public navigation. A canal may, therefore, be as much within the jurisdiction as any other body of water, and in so holding, the principal case is in accord with previous authorities. *The Oler* (1874) 2 Hughes 12; ex parte *Boyer* (1883) 109 U. S. 629. The only body of water which, it seems, would not be subject to the admiralty jurisdiction of the United States courts, is a water entirely within a State, with no navigable outlet. There have been judicial suggestions to this effect, *U. S.* v. *Burlington and Henderson County Ferry Co.* (1884) 21 Fed. 331; *Stapp* v. *Steamboat Clyde* (1890) 43 Minn. 192, and the result would seem to follow of necessity from the recognized definition of United States waters as distinguished from State waters.

The holding of the principal case, that a canal boat is a ship or vessel, as that term is understood in maritime law, suggests another difficult question of definition. What is the determining criterion of a ship or vessel? Is it size, capacity, form, equipment, means of propulsion, or some or all of these? At one time, canal boats were held to be not included in the meaning of the term vessel. *The Ann Arbor* (1858) 4 Blatchf. C. C. R. 205. This view is, however, no longer tenable, for it seems now settled that, whether a structure is a ship or vessel depends on whether it is capable of navigation, and is designed for that purpose. Hughes on Admiralty, 12; see also Benedict's Admiralty §§ 217, 221. Under this test, a floating elevator, intended to move about in a harbor, moving derricks, dredges, and the like, have been held subject to admiralty jurisdiction. *The Hezekiah Baldwin* (1876) 8 Ben. 556; *Malloy* v. *A Steam Derrick Boat* (1879) 3 Hughes 477; *Saylor* v. *Taylor* (1896) 77 Fed. 476. Clearly canal boats, too, must be included.